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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,554	01/09/2006	Fabian Kollmann	D4700-00399	5082
8933	7590	12/11/2007		
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			EXAMINER MAHONE, KRISTIE ANNETTE	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,554

Applicant(s)

KOLLMANN ET AL.

Examiner

Kristie A. Mahone

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5 and 7-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5 and 7-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/29/2007 & 6/13/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 9, 2007 has been entered.

Terminal Disclaimer

2. The terminal disclaimer filed on November 9, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of copending application 10/538,552 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rigid attachment of the pivot axes (claim 1) and wall mounting arm which forks approximately midway along its length, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Claim 1 calls for pivot axis "rigidly attached to the wall-mounting arm" upon which the wall mounting arm pivots and pivot axis which is "rigidly attached on the wall mounting arm adjacent to the end of the wall-mounting arm that is opposite from the mounting fixture." The claim further specifies that the pivot axes are "at a fixed spacing" during pivoting. However, such terminology does not appear in the written disclosure. Correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 refers to a pivot axes where are "rigidly attached" to the wall mounting arm. The original disclosure does not describe a rigid attachment commensurate with the scope of the amended claims. Claims 2-32 depend from claim 1, and are likewise rejected

8. Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The scope of the claims is unclear because the written disclosure fails to clearly set forth what constitutes a "rigidly attached" pivot axis. In treating the claims on the merits, Examiner has assumed that the term "rigidly attached " refers to an interface that allows movement about the axis, but prevents dislodgment of the moveable component during regular operation.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1,3,5, and 7-32 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Gransow, et al (6,442,775).

Regarding claim 1, Gransow, et al show a support for a "detachable" shower head including a mounting fixture (1), and wall-mounting arm (2a,b) jutting out of mounting fixture along a longitudinal axis¹ (Figs. 1-4). An end² of the wall mounting arm pivots on the mounting fixture about a pivot axis (10 through 111) that is rigidly attached to the wall mounting arm and parallel to the surface of a wall (6) on which the support is fixed. A holder (as at 40) holds a shower head (as at 440-442) in the vicinity of an end of the wall mounting arm opposite from the pivoted end of the wall mounting arm. The holder is affixed to the wall mounting arm at a pivot axis (400 through 41) that is rigidly attached on the mounting art adjacent to the end of the wall mounting arm opposing the mounting fixture. The pivot axes (10,400) are parallel and at a fixed spacing during pivoting of the holder on the wall-mounting and pivoting of the wall-mounting arm on the

¹ i.e. dashed line bisecting arm 2, shown in Figure 2.

² Herein after "pivoted end"

mounting fixture. Also, note that the shower head (44) is "detachably attachable" to the wall-mounting arm; e.g. via joint 22.

Regarding claim 3, note that the pivot axis of the holder is approximately orthogonal to a longitudinal axis of the wall mounting arm (See Fig 2).

Regarding claim 5, also note that the wall-mounting arm pivots on the mounting fixture about an axis in a horizontal plane.

Regarding claims 8-10, further note that the wall-mounting arm forms a fork in the vicinity of its far end from the mounting fixture (Figs 1-4,9). The holder (40) is arranged between tines of the fork. Also, note that the arm forks approximately midway along its length.

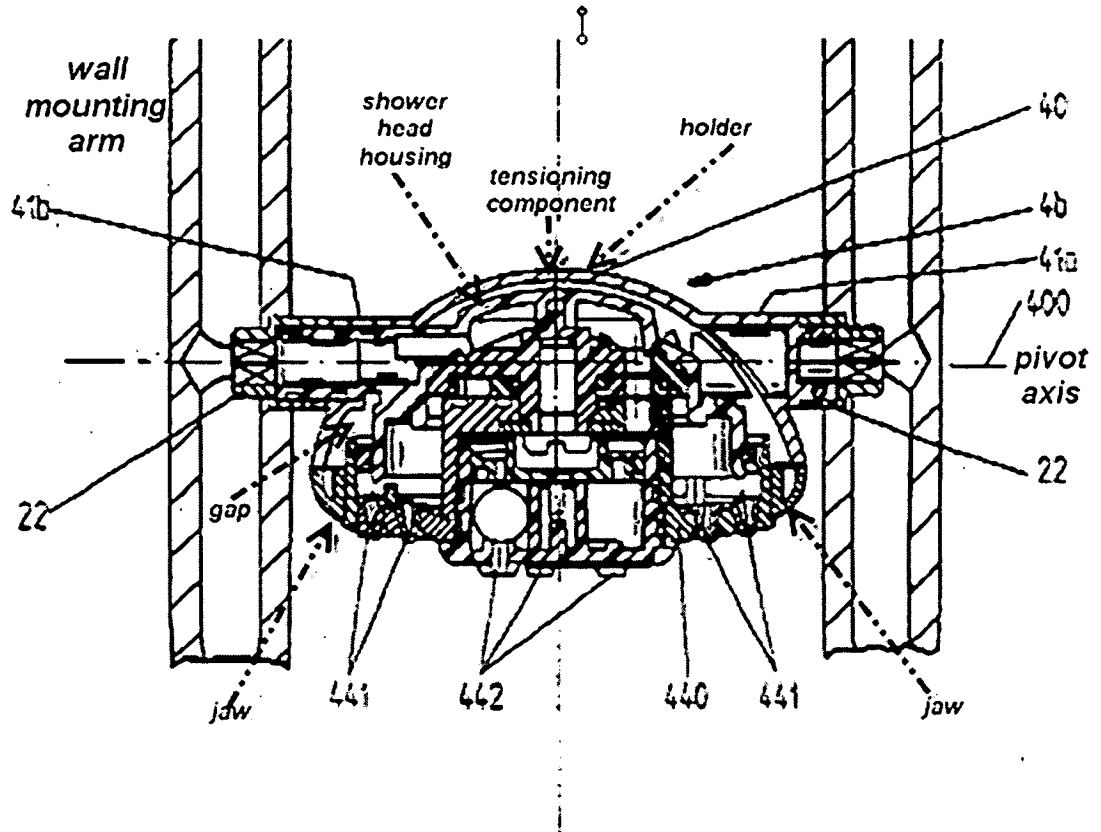


Figure A. Gransow, et al Figure 4.

With respect to claims 11-14, 19, and 20, reference is made to Figure A. As schematically shown, that the pivot axis of the holder (400) intersects a housing of the showerhead, near a centroid thereof (Fig. 4). The holder for the shower head is configured to engage a location on a housing of the showerhead (as at an outer perimeter thereof) provided for holding it that is not recognizable as such (based on its shape at that location) and acts by means of a "interference fit" in a withdrawal, or insertion direction. The holder engages the housing of the shower head a two locations on its surface which are approximately opposite and diametrically opposed.

Regarding claim 15, the shower head remains functional following withdrawal from the holder.

Regarding claims 18, 21-24, and 31, the shower head, shower head housing, holder, tensioning component, and jaws are labeled in Figure A. The jaws on the holder of the shower head are tensioned toward one another while the shower head is inserted. Further note that contact between the tension component and shower head housing takes place over an extended area.

Regarding claims 25 and 32, the mounting arm is also a curved rod forming a continuous unit out to its far end, where in the holder is arranged (Fig 1).

Regarding claim 26, the shower head is configured in a form of a "hand-held showerhead having a grip attached to its housing.

Regarding claim 27, note that the shower head has a disk shaped housing (See Fig. 4).

Regarding claim 28, a hose (50) leading to the shower head is connected to the mounting fixture (Fig. 3).

Regarding claim 30, the axis (400) about which the holder rotates intersects the showerhead near a centroid thereof (Fig. 4).

Response to Arguments

11. Applicant's arguments³ with respect to Guenter (DE 10051452), Huppe (DE 19942853), and Fornara (5,855,348) have been considered, but are moot in view of the new ground(s) of rejection.

Response to Amendment

12. Applicant's amendments, filed November 9, 2007, are sufficient to overcome the formal rejections raised in the last Office Action⁴. However, the amendment to pending claims fails to overcome the cited prior art and the grounds of rejection discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie A. Mahone whose telephone number is (571) 272-3680. The examiner can normally be reached on Monday -Friday 8:30A.M-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

³ See Remarks, filed 11/9/2007, at pgs 7-11.


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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kristie A Mahone
Examiner
Art Unit 3751



KHOA D. HUYNH
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700

⁴ Final Rejection, mailed 6/12/2007.